

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
WILSON DIVISION

IN RE: CAREMERICA, INC.)	CASE NO: 06-02913-8-JRL
DEBTOR)	CHAPTER 7
)	
JAMES B. ANGELL, Trustee)	
Plaintiff)	
)	
v.)	ADVERSARY PROCEEDING
)	NO: 08-00174-8-JRL
BER CARE, INC., ET AL.,)	
Defendants)	

**ANSWER OF DEFENDANT CITY OF WILSON TO COMPLAINT TO AVOID AND
RECOVER PREFERENTIAL AND/OR FRAUDULENT TRANSFERS**

NOW COMES the Defendant, City of Wilson, through counsel, and responds to
Plaintiff's Complaint to Avoid and Recover Preferential and/or Fraudulent Transfers as follows:

FIRST AFFIRMATIVE DEFENSE

Pursuant to 11 U.S.C. § 547, any alleged preferential transfers received by Defendant
were contemporaneous exchanges or substantially contemporaneous exchanges between
Defendant and Caremerica, Inc., Caremerica Adult Care, Inc., The Meadows of Hermitage, Inc.,
The Meadows of Fayetteville, Inc., and The Meadows of Wilmington, Inc., ("Debtors").

SECOND AFFIRMATIVE DEFENSE

Pursuant 11 U.S.C. § 547, any alleged preferential transfers received by Defendant were
received in the ordinary course of business; made in the ordinary course of business; and made
according to ordinary business terms.

THIRD AFFIRMATIVE DEFENSE

Pursuant 11 U.S.C. § 547, any alleged preferential transfers received by Defendant are
not avoidable because after the alleged transfers, Defendant provided new value to or for the

benefit of the Debtors that was not secured and the Debtors did not make an otherwise avoidable transfer to or for the benefit of Defendants on account of such new value.

FOURTH AFFIRMATIVE DEFENSE

Pursuant to 11 U.S.C. § 550, Defendant is a good faith mediate or immediate transferee of the initial transferee that took for value in good faith and without knowledge of the avoidability of the transfers.

FIFTH AFFIRMATIVE DEFENSE

Pursuant 11 U.S.C. § 550, Plaintiff is entitled to a single recover and therefore Defendant is entitled to a credit for any and all amounts recovered by Plaintiff on account of the transfers at issue in the present action.

RESPONSE TO COMPLAINT

Defendant responds to Plaintiff's complaint as follows:

1. Defendant admits Paragraph 1 of the Complaint.
2. Defendant admits Paragraph 2 of the Complaint.
3. Defendant admits Paragraph 3 of the Complaint.
4. Defendant admits Paragraph 4 of the Complaint.
5. Defendant admits Paragraph 5 of the Complaint.

GENERAL ALLEGATIONS

6. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 6 of Plaintiff's complaint and therefore denies the same.

7. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 7 of Plaintiff's complaint and therefore denies the same.

8. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 8 of Plaintiff's complaint and therefore denies the same.

9. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 9 of Plaintiff's complaint and therefore denies the same.

10. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 10 of Plaintiff's complaint and therefore denies the same.

11. The allegations of Paragraph 11 are denied as to Defendant City of Wilson.

12. The allegations of Paragraph 12 are denied as to Defendant City of Wilson.

13. The allegations of Paragraph 13 are denied as to Defendant City of Wilson.

COUNT I
AVOIDANCE AND RECOVERY OF PREFERENTIAL TRANSFER PURSUANT TO
11 U.S.C. §§ 547, 550, and 551

14. Defendant incorporates its responses to Paragraphs 1 – 13 as if set forth herein in their entirety.

15. The allegations of Paragraph 15 are denied as to Defendant City of Wilson.

16. The allegations of Paragraph 16 are denied as to Defendant City of Wilson.

17. The allegations of Paragraph 17 are denied as to Defendant City of Wilson.

18. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 18 of Plaintiff's complaint and therefore denies the same.

19. The allegations of Paragraph 19 are denied as to Defendant City of Wilson.

20. The allegations of Paragraph 20 are denied as to Defendant City of Wilson.

21. The allegations of Paragraph 21 are denied as to Defendant City of Wilson.

22. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 22 of Plaintiff's complaint and therefore denies the same.

23. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 23 of Plaintiff's complaint and therefore denies the same.

COUNT II
AVOIDANCE AND RECOVERY OF FRAUDULENT TRANSFER
PURSUANT TO 11 U.S.C. §§ 548, 550, AND 551

24. Defendant incorporates its responses to Paragraphs 1 – 23 as if set forth herein in their entirety.

25. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 25 of Plaintiff's complaint and therefore denies the same.

26. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 26 of Plaintiff's complaint and therefore denies the same.

27. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 27 of Plaintiff's complaint and therefore denies the same.

28. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 28 of Plaintiff's complaint and therefore denies the same.

29. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 29 of Plaintiff's complaint and therefore denies the same.

30. The allegations of Paragraph 30 are denied as to Defendant City of Wilson.

COUNT III
AVOIDANCE AND RECOVERY OF PREFERENTIAL TRANSFER
PURSUANT TO 11 U.S.C. §§ 547, 550, AND 551

31. Defendant incorporates its responses to Paragraphs 1 – 31 as if set forth herein in their entirety.

32. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 32 of Plaintiff's complaint and therefore denies the same.

33. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 33 of Plaintiff's complaint and therefore denies the same.

34. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 34 of Plaintiff's complaint and therefore denies the same.

35. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 35 of Plaintiff's complaint and therefore denies the same.

36. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 36 of Plaintiff's complaint and therefore denies the same.

37. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 37 of Plaintiff's complaint and therefore denies the same.

38. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 38 of Plaintiff's complaint and therefore denies the same.

39. In response to Paragraph 39, Defendant admits that Bankruptcy Code Sec. 547 provides that preferential transfers are avoidable, subject to certain defenses. Defendant is without sufficient information or belief to admit or deny avoidance of the preferential transfers contained in Plaintiff's complaint and therefore denies the same.

40. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 40 of Plaintiff's complaint and therefore denies the same.

41. The allegations of Paragraph 41 are denied as to Defendant City of Wilson.

COUNT IV
AVOIDANCE AND RECOVERY OF FRAUDULENT TRANSFER PURSUANT TO
11 U.S.C. §§ 548, 550, AND 551

42. Defendant incorporates its responses to Paragraphs 1 – 41 as if set forth herein in their entirety.

43. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 43 of Plaintiff's complaint and therefore denies the same.

44. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 44 of Plaintiff's complaint and therefore denies the same.

45. Defendant is without sufficient information or belief to admit or deny the allegations of Paragraph 45 of Plaintiff's complaint and therefore denies the same.

46. The allegations of Paragraph 46 are denied as to Defendant City of Wilson.

WHEREFORE, Defendant respectfully prays that the Court grant the following relief:

1. That this action be dismissed with prejudice;
2. That Plaintiffs have and recover nothing from Defendants;
2. That Plaintiffs be charged with the costs of this action;
3. That Defendants recover additional relief as this Court deems just and proper.

This the 17th day of November, 2008.

/s/ James P. Cauley, III
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N.C. State Bar. No. 14156

/s/ Patrick D. Riley
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Answer by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail at Wilson, North Carolina, addressed to the following persons at the following addresses:

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This the 17th day of November, 2008.

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N.C. State Bar. No. 14156

/s/ Patrick D. Riley

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